



FEDERAL COMMUNICATIONS COMMISSION

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[WC Docket No. 21-450; FCC 22-64; FR ID 101087]

Affordable Connectivity Program

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) establishes the Affordable Connectivity Outreach Grant Program (Outreach Grant Program), which will provide eligible partners grant funds to conduct outreach in support of the Affordable Connectivity Program (ACP).

DATES: Effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order (Report and Order) in WC Docket No. 21-450, adopted on August 5, 2022 and released on August 8, 2022. Due to the COVID-19 pandemic, the Commission's headquarters will be closed to the general public until further notice. The full text of this document is available at the following Internet address: <https://www.fcc.gov/document/fcc-establishes-affordable-connectivity-outreach-grant-program-0>

I. INTRODUCTION

1. In this final rule, the Commission establishes the Outreach Grant Program, which will provide eligible partners grant funds to conduct outreach in support of the Affordable Connectivity Program. The Infrastructure Investment and Jobs Act (Infrastructure Act) appropriated \$14.2 billion for the Affordable Connectivity Program, which provides qualifying low-income households discounts on

broadband service and connected devices, and expressly authorizes the Commission to conduct outreach for the Affordable Connectivity Program, including providing grants to outreach partners. The Commission previously allocated up to \$100 million of this budget for outreach, including an outreach grant program and outreach activities by the Commission's Consumer and Governmental Affairs Bureau (CGB) as authorized in the Infrastructure Act, to be spent over five years.

2. The Affordable Connectivity Program plays an integral role in helping to bridge the digital divide, which is an ongoing top priority for Congress and the Commission. To date, over 12 million low-income households participate in the Affordable Connectivity Program. However, a significant number of qualifying households have not yet enrolled in the Affordable Connectivity Program. The Commission previously recognized in the *ACP Order*, 87 FR 8346, February 14, 2022, that to achieve the program's full potential and reach as many eligible households as possible, households must be clearly informed of the program's existence, benefits, and eligibility qualifications, and how to apply. Through this Outreach Grant Program, the Commission seeks to enlist partners around the country to help inform ACP-eligible households about the program in their local communities, and to provide those partners with the funding and resources needed to increase participation among those Americans most in need of affordable connectivity.

II. DISCUSSION

3. In this final rule, the Commission discusses the goals and objectives of the Outreach Grant Program; provides examples of the types of outreach activities and expenses that may be considered for funding and types of eligible entities; allocates funding set-asides for specific types of grantees; establishes important safeguards to promote program integrity and guard against potential waste, fraud and abuse; adopts and implements regulations pertaining to grants in title 2, subtitle B, and title 47 of the Code of Federal Regulations; directs CGB, in coordination with the Office of General Counsel (OGC) and Office of the Managing Director (OMD) as appropriate, to develop, manage, and administer the Outreach Grant Program; provides guidance and regulatory requirements for the framework for the Outreach Grant Program; and addresses other requirements and administrative aspects of the Outreach Grant Program. While this final rule provides the necessary structure and guidelines for the Outreach Grant Program, consistent with its authority under applicable Federal statutes and

regulations, additional details on specific grant program requirements and the application process will be provided in one or more Notices of Funding Opportunity (NOFOs) to be subsequently issued to solicit grant applications, in the awards to individual eligible grantees, and in orders and/or public notices issued by CGB in coordination with OMD, the Wireline Competition Bureau (WCB), and OGC, as appropriate.

4. The *ACP Further Notice of Proposed Rulemaking (FNPRM)*, 87 FR 8385, February 14, 2022, explained that a number of Federal statutes and regulations govern Federal grant programs, including 2 CFR parts 25, 170, 175, 180, 182, and 200, and that appropriations riders may also impose additional conditions on Federal grant programs. Commenters did not specifically comment on the implementation of these provisions. Accordingly, the Outreach Grant Program will be structured in accordance with these regulations and any applicable statutes and Federal grant program conditions in appropriations riders. To fully implement the requirements of 2 CFR parts 25, 170, 175, 182 and 200 and any other non-self-executing requirements in 2 CFR (and other government-wide statutes and regulations applicable to grants and other awards of Federal financial assistance), the Commission grants CGB, in coordination with WCB, OGC, and OMD as appropriate, authority to adopt policies and procedures regarding such requirements through inclusion in the NOFO, inclusion in the terms and conditions of each grant, adoption, modification, and/or clarification of regulations, issuance of orders or public notices on delegated authority, and/or through publicly available instructions provided to applicants and/or grantees.

5. The Outreach Grant Program will provide funding to support eligible partners in their outreach efforts to increase awareness of the Affordable Connectivity Program among eligible households, and to encourage eligible households to participate in the Affordable Connectivity Program. The record, in particular, supports ACP outreach to diverse populations. For purposes of the Outreach Grant Program, diverse populations include people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality.

6. Federal grant regulations require Federal awarding agencies to incorporate into their grant programs “clear goals and objectives that facilitate the delivery of meaningful results consistent with the Federal authorizing legislation of the program.” Federal grant regulations also require that the

program design “align with the strategic goals and objectives within the Federal awarding agency’s performance plan and should support the Federal awarding agency’s performance measurement, management, and reporting as required by Part 6 of OMB Circular A-11” and “align with the Program Management Improvement Accountability Act (Pub. L. 114-264).”

7. The *ACP FNPRM* sought comment on the goal of the Outreach Grant Program. Pursuant to the Commission’s Congressional authorization to conduct ACP outreach, the Commission establishes an Outreach Grant Program goal and related objectives to be consistent with the goals of the Affordable Connectivity Program, to reduce the digital divide and to promote awareness of and participation in the Affordable Connectivity Program, and the Commission’s overall strategic goals and objectives that support bringing affordable broadband to low-income households.

8. The Commission adopts the goal of facilitating the promotion of the Affordable Connectivity Program to increase awareness of and participation in the program among eligible households. This goal is sound, supported by the record, and can be measured with appropriate data collected from grantees and ACP program data. Additionally, progress towards this goal advances the goals of the program to “promote awareness and participation in the Affordable Connectivity Program,” and to “reduce the digital divide for low-income consumers.” It also advances the Commission’s overall strategic goals and objectives of facilitating access to and adoption of broadband internet by underserved, underrepresented, and low-income households. To meet this Outreach Grant Program goal, the Commission will provide funding to outreach partners to engage in targeted outreach to low-income and diverse households nationwide both to gauge existing levels of ACP awareness and to promote increased awareness of and participation in the program by eligible households.

9. To support the accomplishment of the goal of facilitating the promotion of the Affordable Connectivity Program to increase awareness of and participation in the program among eligible households, the Commission adopts three objectives for the Outreach Grant Program: (1) expand and support diverse and impactful outreach efforts nationwide to reach eligible Affordable Connectivity Program households, including, but not limited to, people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality; (2) strengthen outreach partners nationwide by

empowering them to mobilize people and organizations to help raise awareness about the Affordable Connectivity Program; and (3) increase enrollment in the Affordable Connectivity Program, particularly in areas served by the outreach grants, by underrepresented, underserved, and low-income households. These objectives are consistent with the authorizing language in the Infrastructure Act and are also consistent with the record and in alignment with the Commission's strategic goals and objectives identified in this document.

10. The first objective – expanding and supporting diverse and impactful outreach efforts nationwide – implements the Commission's strategic goals of facilitating access to and adoption of affordable broadband internet service and promoting affordable access to reliable broadband networks by diverse populations in underserved areas including rural, high-cost, and insular areas. This objective is also supported by the record—many commenters highlight the need for ACP outreach, and, in particular, for outreach to diverse and underserved groups across diverse geographic regions. To accomplish this objective, the Outreach Grant Program will use eligibility criteria that encourage program participation by entities that are capable of meeting the goal of the program and will provide funding to support ACP outreach by a broad range of eligible outreach partners.

11. The second objective – strengthen outreach partners – also implements the Commission's strategic goal of increasing broadband adoption and access and the strategic objective of communicating information about FCC programs and policies to help increase adoption of affordable broadband. It further implements the goals of the Affordable Connectivity Program to promote awareness of and participation in the program for eligible households. To accomplish this objective, the Outreach Grant Program will provide funding for outreach and will also provide prospective applicants technical assistance on the Outreach Grant Program application requirements and Outreach Grant Program rules and requirements and provide grantees with programmatic training and standardized outreach materials.

12. The Commission's third objective under the Outreach Grant Program – increasing enrollment in the Affordable Connectivity Program by qualifying underrepresented, underserved, and low-income households – implements the Commission's strategic objectives of facilitating access to and adoption of broadband internet service, including by low-income and underserved populations, and the Affordable Connectivity Program's goal of reducing the digital divide. The Outreach Grant Program can

facilitate universal access to affordable broadband internet service by raising awareness of and encouraging participation in the Affordable Connectivity Program among eligible households. To accomplish this objective, the Outreach Grant Program will provide funding to facilitate outreach by eligible partners and will encourage participation of partners who are capable of reaching underrepresented, underserved, and low-income households and helping them to enroll in the Affordable Connectivity Program.

13. Consistent with Federal grant regulations, and the delegations of authority in this final rule, the Commission directs CGB, in consultation with WCB and the Office of Economics and Analytics (OEA), to develop meaningful performance measures to evaluate progress towards this goal and to collect the necessary information from grant recipients, subrecipients, and Universal Service Administrative Company (USAC or ACP Administrator) to measure progress towards this goal. Further the Commission instructs CGB, WCB, and USAC to explore whether and how outreach activities could be linked to specific enrollments, which could help measure the success of specific outreach efforts. The Commission will use data collected as part of the Outreach Grant Program as an indicator to measure Affordable Connectivity Program awareness among eligible households, which will be necessary to monitor progress toward the goal established in this final rule. Accordingly, the Commission directs CGB, in coordination with OEA and WCB, to use the data collected from grant recipients, which may include consumer surveys, research efforts, and feedback sought from “our state, community and non-profit partners helping to educate consumers on the [ACP] application process” to measure progress toward the goal the Commission has established for the Outreach Grant Program.

14. In authorizing the Commission to conduct outreach, Congress recognized that multiple forms of outreach are appropriate to ensure that eligible households are aware of and encouraged to participate in the Affordable Connectivity Program. However, the Infrastructure Act does not specify the types of outreach activities that are fundable through the Outreach Grant Program. Accordingly, in the *ACP FNPRM*, the Commission sought comment on the types of outreach activities that should be eligible for outreach grant funds, and the Commission now provides examples of the types of outreach activities that may be funded through authorized grants. Any NOFO issued for the Outreach Grant Program will provide further guidance on allowable activities and costs consistent with the goal and objectives of the

Outreach Grant Program and the applicable authority under Federal statutes and regulations governing Federal grant programs.

15. Based on the Commission’s careful review of the record, and CGB’s outreach experience, the Commission finds that a wide range of activities including, but not limited to, in-person events, literature campaigns, digital campaigns, and paid media campaigns could provide meaningful, effective Affordable Connectivity Program outreach tailored to targeted communities. Accordingly, in this final rule the Commission does not prescribe a comprehensive list of fundable outreach activities for the Outreach Grant Program. Instead, the Commission more broadly directs that all grant-funded outreach activities must be designed to support the stated goal and one or more of the stated objectives of the Outreach Grant Program. Further information will be provided as part of any NOFO issued by CGB. Consistent with the delegations of authority in this final rule, the Commission directs CGB to determine whether certain types of outreach activities should be prioritized based on a reasoned evaluation of which outreach activities will best meet the Outreach Grant Program goal and objectives, except as otherwise directed herein.

16. The record supports funding a wide range of outreach activities to ensure that grant program participants have the flexibility to tailor outreach to the specific community they are targeting. For example, Common Sense urges the Commission to give grantees flexibility to use a variety of approaches because “no single outreach method will be appropriate for all communities” given that the digital divide impacts a diverse range of communities that are geographically distinct, use a variety of languages and communication media, trust different organizations, and have varying levels of technological fluency. Alaska Federation of Natives (AFN) recommends that the Commission give grantees “maximum flexibility to conduct outreach activities including television and radio, social media, local newspapers (still common in rural communities), or community events” to accommodate the needs of and most effective methods of reaching out to different communities. Similarly, the San Diego Association of Governments (SANDAG) states that “[c]ommunity-focused outreach and engagement strategies are highly dependent on a community’s political, social, and economic conditions” and recommends that the Commission “should provide the flexibility for grantees to design community outreach and engagement based on localized community needs.” The Commission agrees that funding a

wide range of outreach activities through the Outreach Grant Program would best provide grantees flexibility to conduct outreach tailored to the specific community they are targeting and allow us to direct funding in a manner that optimizes its ability to meet the programs goals and objectives.

17. Examples of the types of activities that commenters ask the Commission to fund through the grant program include, but are not limited to, in-person and virtual outreach events and campaigns, text messaging, phone banking, social media campaigns, literature campaigns, and paid media campaigns. Specifically, the National Hispanic Media Coalition (NHMC) recommends that the Commission “prioritize investment in trusted messengers, culturally-relevant programming, and in-language materials.” Based on its experience implementing other federally funded outreach campaigns, the National Urban League recommends that “community events, mailers, radio and television broadcasts, paid advertisements, ethnic media, newsletters, social media, and other outreach targeted to the populations covered in the [Infrastructure Act]” be funded through the Outreach Grant Program. Several commenters support funding paid media campaigns such as public service announcements, radio and television ads, and billboards, particularly in communities most impacted by the digital divide. Other commenters emphasize the importance of traditional outreach campaigns, both virtual or in-person, including, but not limited to, community events, workshops, mailers, newsletters, phone banks, street teams/canvassers, and door knocking. Commenters also support funding social media and digital outreach, such as social media advertisements and text messaging campaigns. These types of activities are tested and proven in their ability to reach diverse and targeted audiences and may therefore be considered an allowable use of grant funds in any NOFO consideration.

18. The Commission recognizes the importance of ensuring that grant-funded ACP outreach is accessible to all diverse, eligible low-income households. Several commenters emphasize the value of multilingual outreach, such as making program information available in multiple languages and ensuring outreach staff are prepared to communicate in languages other than English. The ACP rules also require that service provider ACP outreach and other communications be accessible to individuals with disabilities. The Commission agrees with commenters that outreach in languages other than English is important and also continues to find that there is a need for ACP outreach to be accessible to individuals with disabilities. Accordingly, the Commission allows funding for multilingual and accessible outreach,

and it strongly encourages grantees to conduct grant-funded outreach in the languages spoken in the areas and communities that they are targeting and to also ensure that the grant-funded outreach is accessible to individuals with disabilities.

19. In addition, commenters emphasize the importance of providing ACP application assistance to eligible consumers in connection with fundable outreach activities. The Commission agrees that in-person application assistance would help many potential applicants who may experience difficulty completing and submitting an application on their own, and specifically finds that grant funds may be used for this purpose. The Commission notes that some commenters advocate for funding that would support the ability to provide potential applicants remote assistance with completing and submitting their applications. However, as explained in the *ACP Order*, to protect the program's integrity, the Commission requires ACP applicants to be physically present with the individual providing application assistance to complete, sign, and certify their application. This requirement provides an important safeguard against waste, fraud, and abuse by ensuring that the applicant is actually the person who signs and submits the application and has reviewed and acknowledged the required applicant certifications. The Commission therefore declines to provide grant funds for remote assistance with completing and submitting ACP applications.

20. Although access to the National Verifier can facilitate ACP enrollment by allowing direct assistance to low-income households with completing and submitting an application in the National Verifier, the Commission declines to provide grantees access to the National Verifier as part of this grant program. For program integrity and administrative reasons, access to the National Verifier is limited to service providers and certain neutral, trusted, third-party entities (e.g., governmental entities and their partners). Further, grantees are able to conduct meaningful, effective ACP outreach and provide application assistance without having direct access to the National Verifier. However, the Commission separately has two limited scope and duration pilot initiatives through which some outreach grantees that are also neutral, trusted third party entities (such as state, regional, and local governments, schools or school districts, state and local housing authorities, Tribally Designated Housing Entities, associations representing multiple Tribally Designated Housing Entities, or other state, regional, and local government entities or public housing authorities and their partners, as permitted pursuant to pilot rules), may be able

to obtain direct access to the National Verifier for purposes of helping eligible consumers apply for the Affordable Connectivity Program directly in the National Verifier.

21. Consistent with Federal grant regulations, all outreach expenses funded through this grant program must be necessary and reasonable for the performance of the award. Many parties commented on the types of outreach expenses for which grant funds could be used. For example, commenters advocate for the ability to use outreach grant funds for a broad variety of costs. Specifically, commenters advocate for funding the following types of costs: grant application, compliance, and planning costs; advertising costs (e.g., traditional advertising, social media, and text messaging campaigns); indirect costs; travel costs for outreach (e.g., mileage, gas, and related travel incidentals); grant administration costs (e.g., reporting, evaluation, auditing); percentage of program costs for facilities to cover overhead; outreach personnel costs; costs for hosting outreach events (e.g., supplies, facility costs, incentives, and food and refreshments for households attending outreach events); costs to create and distribute materials such as toolkits, fliers, or train-the-trainer guides that enable other organizations to promote the Affordable Connectivity Program; costs for technology (e.g., tablets, laptop computers, and printers for use at outreach events) to support enrollment; costs to create, produce, and disseminate consumer outreach materials such as mailers and posters; and costs to translate and interpret ACP consumer outreach materials.

22. Given the broad range of expenses that could be necessary and reasonable to provide meaningful, effective outreach to eligible households, the Commission declines to prescribe in this final rule a comprehensive list of allowable outreach expenses, but reiterate that all outreach expenses funded through this grant program must be necessary and reasonable for the performance of the award. To promote fiscal responsibility and ensure that the vast majority of the grant funding is targeted towards outreach activities, moreover, grants will be subject to a five percent cap on management and administrative expenses per individual award. In addition, the Commission makes clear that the grant funding is intended for eligible costs of ACP outreach for which applicants do not already have or expect to receive other funding. Grant funds may not be used to replace (supplant) funds that applicants have already obtained or expect to receive for the same purpose. The Commission directs CGB, in consultation with WCB, OMD, and OGC, to identify allowable and unallowable outreach costs for the

grant program, subject to the necessary and reasonable for the performance of the award standard applicable to Federal grants, and to provide this information in any NOFO issued for the grant program. In making these determinations, CGB shall consider the goal and objectives and available funding for the Outreach Grant Program, the need for fiscal responsibility, and the restrictions on fundable costs in the applicable statutes and regulations governing Federal grants. CGB shall have the authority to make revisions to the types of allowable costs during the grant program and may also cap certain types of expenses. The Commission further notes that Federal grant regulations, which it has adopted herein for this grant program, prohibit the use of Federal funds for certain costs.

23. The Commission takes seriously its obligation to guard against waste, fraud, and abuse in the use of Federal funds. To promote the integrity of the Outreach Grant Program and the Affordable Connectivity Program and to protect consumer choice among service providers, the Commission adopts several important program safeguards. In addition, costs funded through the outreach grants are subject to principles, restrictions, and limitations under the statutes and regulations applicable to Federal grant programs. For example, award recipients are prohibited from using grant funds for entertainment or to purchase alcohol, contracting with the enemy, and purchasing telecommunications and video surveillance services or equipment provided by prohibited companies.

24. The Commission requires that all grantees not favor any particular service provider in performing outreach activities funded by this Outreach Grant Program. Service providers stand to benefit financially from the enrollment of additional eligible households in the Affordable Connectivity Program. Accordingly, it would be inappropriate to use Outreach Grant Program dollars in a manner intended to specifically increase a particular provider's program enrollment. Additionally, requiring grantees to maintain neutrality among service providers will protect eligible households' right to choose their ACP provider and the type of broadband service that best fits their needs. Neutrality with respect to participating providers is similarly a requirement for the ACP Navigator and Your Home, Your Internet Pilots that were established in the *ACP Order* and the *Your Home, Your Internet Pilot Order*, published elsewhere in this issue of the **Federal Register**, respectively, and these same concerns equally apply in the context of the Outreach Grant Program.

25. Consistent with this outreach neutrality requirement, grantees may not direct, steer,

incentivize or otherwise encourage eligible households to enroll with a particular ACP provider or one of a specific group of ACP providers (including, but not limited to, broadband industry groups such as trade associations) when conducting grant-funded outreach activities, and grantees must make clear that eligible households may enroll with the ACP provider of their choice. In addition, grantees may not use service provider-branded items such as outreach materials, gifts, or incentives when conducting grant-funded outreach activities. Grantees also may not offer or provide consumers gifts or incentives provided by service providers when conducting grant-funded outreach activities. Such gifts and incentives could compromise the grantee's neutrality with respect to ACP service providers and could also improperly influence eligible households' choice of provider. Furthermore, grantees may not otherwise accept funding in any form, including in-kind contributions, from a participating provider or a specific group of participating providers (including, but not limited to, broadband industry groups such as trade associations) for the purpose of conducting grant-funded outreach activities. The Commission recognizes that it may be beneficial in some instances to have service provider representatives in attendance at grant-funded outreach events to provide eligible households information on the available service offerings to which they may apply their ACP benefit. The Commission does not prohibit this, provided that all ACP participating providers that provide service in the area where the outreach is conducted have the same opportunity to attend and provide information on their services to which the ACP benefit can be applied. The Commission also does not prohibit including information in connection with grant-funded outreach on how to find an ACP service provider. Accordingly, outreach funded through the Outreach Grant Program can direct eligible households to the Companies Near Me Tool and can include a list of all providers serving the areas where the outreach is performed. The Commission makes clear that this service provider neutrality requirement does not preclude grantees from otherwise collaborating with state agencies, public interest groups, and non-profit organizations to carry out public awareness campaigns that highlight the value and benefits of broadband internet access service and the existence of the Affordable Connectivity Program, as required under the Infrastructure Act.

26. The Commission also prohibits entities conducting outreach funded through the Outreach Grant Program from providing any form of compensation to individuals engaged in grant-funded outreach activities based on the number of ACP applications or enrollments resulting from their grant-funded

outreach activities. The Commission's rules for the Lifeline program similarly prohibit participating providers from offering or providing commission or other compensation to enrollment representatives or their direct supervisors that is based on the number of consumers who applied for or are enrolled in Lifeline with that particular provider. The ACP rules also prohibit participating providers from offering or providing to enrollment representatives, their direct supervisors, or entities operating on behalf of a participating provider, any form of compensation that is based on the number of ACP applications or enrollments with that provider, revenues the provider receives or expects to receive through the Affordable Connectivity Program, or any other compensation based on ACP applications, enrollments, or other revenues. Based on the Commission's experience administering the Lifeline program and the Affordable Connectivity Program, it finds that allowing grantees to provide such compensation in connection with grant-funded outreach activities could compromise the integrity of the program and its goals. Therefore, the Commission prohibits grantees from providing compensation to their personnel, representatives, or others acting on their behalf based on the number of ACP enrollments or applications submitted in connection with outreach activities funded under the Outreach Grant Program.

27. Consistent with Federal regulations that the Commission has made applicable to this grant program, it notes that grantees may not "earn or keep any profit resulting from" an Outreach Grant Program award. For example, a grantee may not accept or receive payment or other compensation (other than funded, allowable outreach expenses) in exchange for hosting an outreach event or providing application assistance to an ACP applicant at a specific site as part of the Outreach Grant Program. The Commission also notes that grantees may not charge low-income households a fee for educating them about or providing them with assistance in submitting an ACP application. This ensures that outreach grant partners do not make a profit from or otherwise financially benefit from conducting ACP outreach through the Outreach Grant Program.

28. To further promote program integrity, the Commission prohibits the use of grant funds to support or obtain gifts or incentives to offer or provide to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program. At least one commenter advocates for the ability to use grant funds to provide incentives to encourage consumers to learn about and apply for the Affordable Connectivity Program. The Commission finds that gifts and incentives supported by or offered when

conducting grant-funded outreach activities may induce households to submit an ACP application that they may not have otherwise submitted primarily to obtain the gift or incentive or may encourage an ACP participating household to attempt multiple enrollments to obtain the gift or incentive even though the ACP benefit is limited to one per household. These outcomes may result in waste, fraud, and abuse, and thus the Commission prohibits the use of grant funds for these practices.

29. Outreach by a range of entities is critical to maximizing the impact of the Affordable Connectivity Program. While the Infrastructure Act authorizes the Commission to provide grants to outreach partners, it does not specify the types of entities that qualify as outreach partners. In the following, the Commission provides examples of the types of entities that may be eligible to participate in the Outreach Grant Program as grantees and subrecipients. The Commission encourages entities of all types and diverse organizations, including organizations serving, led, and/or owned by persons of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, to submit applications for the Outreach Grant Program once a NOFO is released. Like commenters, the Commission is also mindful of the importance of equitable outreach efforts as it works to reach underserved communities most impacted by the digital divide, and it reminds prospective applicants of the Federal grant requirement to “take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.” The Commission also encourages entities participating in the Commission’s ACP Navigator and Your Home, Your Internet Pilot Programs, through which limited trusted entities may be granted access to the National Verifier to assist eligible households to complete and submit the ACP application, to apply for outreach grants to enhance their participation in those pilot programs.

30. The Infrastructure Act authorizes the Commission to provide grants to outreach partners to encourage eligible households to enroll in the Affordable Connectivity Program. At a minimum, then, outreach partners must be capable of conducting ACP outreach, that is, communicating or engaging with eligible low-income populations to inform or educate them about the Affordable Connectivity Program, to increase their awareness of the program, and to encourage or assist them to apply for the program. Moreover, eligible entities must be able to satisfy all legal requirements applicable to Federal grantees.

For instance, to be eligible, an entity must be able to comply with Federal grant regulations adopted by the Commission, to obtain and report an FCC Registration Number (FRN), and to register with, and maintain an active registration with, the System for Award Management (SAM). Additionally, entities seeking to participate must satisfy statutory requirements, such as those restricting grant eligibility of entities indebted to the United States. Accordingly, the Outreach Grant Program will be open to entities capable of (a) directly or indirectly (through subrecipients) conducting outreach to increase awareness of and to encourage or assist with applying for the Affordable Connectivity Program; and (b) complying with all applicable policies and rules adopted herein, including the adopted requirements of 2 CFR part 200, any policies and rules that may be subsequently adopted on delegated authority by CGB to implement the Outreach Grant Program, and any other applicable grant-related statutes and regulations. The Commission strongly encourages eligible entities interested in applying for the Outreach Grant Program to familiarize themselves with regulatory and statutory requirements by closely studying applicable grant regulations and the relevant NOFO.

31. The *ACP FNPRM* sought comment on the types of entities that should be deemed eligible to apply for outreach grant funds and proposed, at a minimum, that non-profit organizations and trusted community organizations be eligible. Commenters support making the Outreach Grant Program open to a wide range of public and non-profit entities. The Commission agrees that the Outreach Grant Program should generally be open to a variety of entities to encourage participation from a diverse range of outreach partners, in terms of type and size, and to maximize the reach and impact of the grant program. Consistent with the record and the goal and objectives of the grant program, and subject to the basic eligibility criteria in the document, governmental and non-governmental entities are eligible for the grant program. Based on the Commission's review of the record, the types of entities eligible to participate in the Outreach Grant Program include, but are not limited to:

- Tribal governments and subdivisions thereof, as well as tribal organizations;
- State governments and subdivisions thereof (including the District of Columbia and U.S. Territories);
- Local governments and subdivisions thereof (including county, borough, municipality, city, town, township, parish, local public authority, special district, intrastate district,

council of governments, and agencies or instrumentalities of multi-regional or intra-state or local government);

- Public housing authorities;
- Social service providers (e.g., food banks, community transportation, childcare);
- Education organizations, such as schools and other institutions of higher education;
- Workforce development training organizations;
- Non-profit organizations;
- Community-based organizations (including faith-based organizations and social service organizations);
- Community anchor institutions (e.g., healthcare providers and healthcare organizations and libraries and library consortia);
- Public service organizations; and
- Consortia of the entities listed in the document.

Depending on the outreach target or audience for a particular NOFO and where appropriate to meet a specific program goal or objective, CGB is authorized to modify, expand, or limit the types of entities that may be eligible to receive grant funds under a particular funding opportunity in this grant program.

32. The *ACP FNPRM* asked whether the eligibility of non-profit organizations should be limited to organizations with 501(c)(3) status. This refers to section 501(c)(3) of the Internal Revenue Code, under which an organization will be tax-exempt if it is “organized and operated exclusively for exempt purposes set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual.” The exempt purposes are charitable (including “relief of the poor, the distressed, or the underprivileged” and “eliminating prejudice and discrimination”), religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. To qualify for 501(c)(3) status, an organization must pass “organizational” and “operational” tests, and must not be an “action organization,” meaning that it “may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.”

33. Several commenters suggest limiting eligibility for non-profit organizations to those with

501(c)(3) status. The National Digital Inclusion Alliance (NDIA), for instance, “urges the Commission to consider only nonprofits with 501(c)(3) status as eligible grantees under the program.” Likewise, the Hawaii Broadband and Digital Equity Office recommends giving award preference to 501(c)(3) non-profit organizations but allowing non-profit organizations who lack that status to be subgrantees. In contrast, the National Lifeline Association (NaLA) contends that the Commission should “avoid categorical limitations on the types of entities that can participate” and asserts that there is “no reason to require grant recipients to be charitable organizations with 501(c)(3) status.”

34. The Commission declines to limit the eligibility of non-profits to organizations with 501(c)(3) status. As NDIA acknowledges, this tax status has limited relevance to whether an applicant can perform effective ACP outreach. The commenters who suggest the 501(c)(3) limitation do not explain why it is necessary or explain how this limitation would support the purposes of the Outreach Grant Program. Making 501(c)(3) status an eligibility criterion could exclude organizations that are capable of engaging in effective outreach efforts but are outside the scope of the 501(c)(3) category, such as social welfare organizations and civic leagues. The Commission also notes that 501(c)(3) status is not necessary to evaluate an applicant’s general eligibility to receive Federal grants or ability to comply with the applicable Federal grant regulations—Federal grant regulations require a robust risk assessment of all Federal grant applicants. Further, numerous other Federal grants are open to non-profit organizations that do not have 501(c)(3) status with the Internal Revenue Service. For these reasons, the Commission does not limit the eligibility of non-profits to organizations with 501(c)(3) status, but it does authorize CGB to require an applicant to provide proof of non-profit status as appropriate.

35. The Commission also declines to categorically exclude for-profit organizations from participation in the grant program. The California Emerging Technology Fund (CETF) argues that private, for-profit companies should be ineligible entities for outreach grants. In contrast, Centri Tech and the U.S. Chamber of Commerce advocate eligibility for both non-profit and for-profit entities, like minority businesses. The Commission agrees that there may be some for-profit entities that could provide meaningful outreach, such as healthcare providers or minority businesses, and CETF does not identify any reason to exclude such entities at the eligibility stage. The Commission reiterates, however, that grantees may not make a profit from or otherwise financially benefit from conducting ACP Outreach

through the Outreach Grant Program.

36. Although the illustrative list of eligible entity types incorporates a wide range of organizations, to promote the integrity of the grant program, the Commission concludes that broadband providers and their subsidiaries, affiliates, representatives, contractors, and agents will not be eligible to participate in the Outreach Grant Program or receive awards, either as grantees, pass-through entities, or subrecipients. Given that broadband providers individually benefit from customer enrollments in the Affordable Connectivity Program, awarding grant funds to help broadband providers increase awareness of and enrollments in the Affordable Connectivity Program presents a significant conflict of interest and would not be a fiscally responsible use of Federal funds. Excluding broadband providers from receiving grant awards would not hinder the goal or objectives of the grant program. Broadband providers that participate in the Affordable Connectivity Program are already obligated by statute and regulation to engage in ACP outreach efforts and should not receive Federal funds to accomplish these obligations. Additionally, because broadband providers benefit financially from ACP enrollment, they already have sufficient incentive to engage in outreach.

37. Further, the Commission is not persuaded by NaLA that it should permit broadband industry trade associations to receive grant awards. Although the Commission agrees with NaLA that its approach to program eligibility should be “inclusive,” broadband provider trade associations present conflict of interest concerns that charitable non-profit organizations, for instance, do not. Just as the Commission finds that permitting broadband providers to participate in the Outreach Grant Program presents a conflict of interest, it finds that the same conflict of interest is inherent where an industry association or trade association made up of or representing the same broadband providers may be seeking government funds to increase its members’ consumer enrollments in the Affordable Connectivity Program. Therefore, the Commission also prohibits broadband industry groups and trade associations that represent broadband providers from receiving awards through the Outreach Grant Program, either as grantees, pass-through entities, or subrecipients.

38. Additionally, consistent with the Federal grant regulations, entities that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities will be ineligible for participation in the Outreach Grant Program. The Commission currently

has pending a notice of proposed rulemaking to adopt and implement the Office of Management and Budget (OMB) Guidelines for suspension and debarment (non-procurement) in 2 CFR part 180, and it asked for comment about the implementation of that part in the *ACP FNPRM*. Commenters did not address suspension and debarment procedures in response to the *ACP FNPRM*. To mitigate the potential for waste, fraud, and abuse in the grant program, the Commission determines here that those rules, should they be adopted, will apply to the Outreach Grant Program. Additionally, certain entities may be ineligible by statute. For example, 501(c)(4) non-profit organizations that engage in lobbying activities are ineligible for Federal grants, as are organizations that are indebted to the United States and have judgment liens filed against them.

39. CGB has extensive experience and expertise in conducting outreach and working with a range of outreach partners, including most recently for the Affordable Connectivity Program and the Emergency Broadband Benefit Program (EBB Program). The Commission directs CGB to develop, administer, and manage the Outreach Grant Program in compliance with the Federal laws and regulations applicable to Federal grant programs, and consistent with the program goal and objectives and requirements the Commission establishes in this final rule. The Commission modifies §§ 0.11, 0.141, and 0.231 of the Commission's rules to reflect CGB's and OMD's additional responsibilities for the grant program and related delegations of authority. In carrying out these delegated functions, CGB shall consult with WCB, OMD, and OGC as appropriate to ensure that the grant program is in compliance with the applicable statutes and regulations for Federal grant programs and the Affordable Connectivity Program, and to ensure that the grant program is otherwise meeting the program objectives, goals and requirements outlined in this final rule. The Commission further directs CGB, in coordination with OMD, OEA, and OGC as needed, to engage with the National Telecommunications and Information Administration, and other Federal agencies that administer broadband funding programs to promote information sharing and collaboration across broadband-related investments across the Federal Government and to avoid unnecessary duplication.

40. Although the Infrastructure Act authorizes the Commission to issue grants to outreach partners, the Infrastructure Act does not specify a budget for these grants, leaving the Commission with authority to determine how much of the overall ACP appropriation should be expended on this grant

program. In the *ACP Order*, the Commission established a budget of up to \$100 million for all outreach for the Affordable Connectivity Program, which includes the Outreach Grant Program as well as the Commission's own non-grant outreach efforts permitted by the Infrastructure Act. This budget recognizes the need for extensive outreach for the Affordable Connectivity Program, while also leaving ample funds from the total \$14.2 billion ACP budget to provide the ACP benefit to as many eligible households as possible for as long as possible. As explained in the *ACP Order*, the \$100 million outreach budget reflects the Commission's consideration of the estimates for the costs of Commission outreach for the Affordable Connectivity Program and the Commission's costs for Digital Television Transition outreach (which included broad paid media campaigns).

41. The allocation of the \$100 million budget for ACP outreach takes into consideration the costs of the Commission's outreach for the Digital Television Transition and EBB Program and comments in the record concerning the costs of outreach activities. This funding allocation will enable CGB to provide grant awards to respond to the need for extensive, meaningful outreach by numerous, diverse eligible outreach partners, while also enabling CGB to conduct its own outreach as authorized in the Infrastructure Act. The Commission makes clear that CGB is not required to spend this full amount. CGB is authorized, in coordination with OMD, to decide if and when to reallocate any remaining unused funds from individual outreach grants for any outreach allowed under the statute or none at all.

42. The Commission directs CGB to designate up to \$60 million of the ACP outreach budget for competitive allocation to eligible entities. Of the \$60 million set-aside for competitive allocation to eligible entities, \$27 million will be reserved for States and U.S. Territories, with a minimum allocation to grantees in each State and U.S. Territory for ACP outreach activities, consistent with this final rule and the program's goal and objectives. In establishing the minimum funding allocation to each State and U.S. Territory, CGB shall allocate an equal amount of funding for each state, the District of Columbia, and Puerto Rico, but may allocate a lesser minimum amount to the remaining U.S. Territories. To facilitate coordination, States and U.S. Territories may choose, but will not be required, to establish a single point of contact to, among other things, coordinate among entities within the State or U.S. Territory that have relevant outreach responsibilities related to implementing the Outreach Grant Program. The Commission further directs CGB to designate a minimum of \$10 million of the ACP outreach budget for competitive

allocation to eligible Tribal governments and Tribal organizations, including Tribally Designated Housing Entities, to be used specifically for ACP outreach to persons who live on qualifying Tribal lands as defined in § 54.1800(s) of the Affordable Connectivity Program rules.

43. To maximize the impact of the dollars allocated for ACP outreach, the Commission seeks to build upon existing initiatives that it has already determined will support the goal and objectives established in this final rule to increase awareness of and participation in the Affordable Connectivity Program; specifically, the ACP Navigator Pilot and Your Home, Your Internet Pilot Programs. Appropriately targeted outreach funding could further the scope of outreach and enrollment activities conducted by participants in these pilots, which in turn would promote the success of these pilots and provide the Commission with valuable information on what is needed to increase awareness and aid in the enrollment of targeted populations, including households that participate in Federal Public Housing Assistance Programs. In establishing the parameters of both pilots, the Commission will inform potential participants that are eligible for grants of its intent to make available outreach grant funds to support their pilot program activities, and will encourage and enable eligible entities participating in one or both of these pilots to apply for Outreach Grant Program funding. Therefore, the Commission directs CGB to set aside up to \$5 million each, for a total of up to \$10 million of the ACP outreach budget, for outreach grants specifically for eligible entities participating in either or both the ACP Navigator or Your Home, Your Internet Pilot Programs. The Commission makes clear, however, that CGB is not required to award this full amount to pilot participants. The Commission also makes clear that while it directs CGB to set aside a specific funding allocation solely for grants to eligible entities participating in Your Home, Your Internet or the ACP Navigator Pilot, eligible entities participating in both or either of these pilots are not limited to applying for that targeted funding, and may apply for a grant in any funding opportunity for which they qualify.

44. The Commission expects that the allocated budget established today for the Outreach Grant Program will support extensive, meaningful outreach by numerous eligible outreach partners. The Commission acknowledges that certain commenters advocate for a total budget larger than \$100 million for outreach grants and other outreach. However, the Commission declines to increase this budget. The \$100 million budget the Commission set for all ACP outreach reflects the critical need for extensive ACP

outreach and the fact that the Affordable Connectivity Program has a limited budget, while also ensuring that ample funding remains for providing broadband and device discounts to eligible ACP households for as long as possible. Increasing the total budget for ACP outreach, including the grant program, as these commenters suggest would reduce the amount of funding available to provide the ACP benefit to as many eligible households for as long as possible.

45. The Commission otherwise declines in this final rule to prescribe a specific number of funding opportunities for the Outreach Grant Program. CGB should determine how quickly and in what amounts to disperse funding across the duration of the Outreach Grant Program. The Commission also directs CGB, in coordination with WCB and OMD, to decide whether to make the grant funds available through one or multiple NOFOs. CGB shall also determine the size of each grant awarded to each eligible outreach partner within the budget limit the Commission establishes herein based on an application process that complies with the applicable Federal grant regulations. The Commission notes that some commenters advocate for front-loading the grant funds to maximize the impact of the outreach grants in the early years of the Outreach Grant Program where the need for outreach is likely to be the greatest. The Commission agrees that this would be an appropriate approach for CGB to consider in deciding funding allocations, including the allocation of the funding set aside for pilot participants, and allocation for competitive grants to eligible entities, to include set-asides to States and U.S. Territories, as well as Tribal organizations, for this Outreach Grant Program. To determine the funding allocation across the grant program, including whether to issue one or multiple NOFOs, the Commission directs CGB to consult with OMD, WCB, OEA, and OGC as appropriate to ensure compliance with the applicable statutes and regulations governing Federal grant programs and the requirements the Commission establishes in this final rule, to also ensure consistency with the Outreach Grant Program's goal and objectives, and to further its interest in maximizing the impact of the grant funds as early as practicable in the course of the Affordable Connectivity Program.

46. The *ACP FNPRM* sought comment on whether the grant program should be a one-time funding opportunity or a multiple-year program. Certain commenters advocate for allowing eligible outreach partners to apply for grant funds throughout the Affordable Connectivity Program. The Commission permits CGB to continue to make grant awards until the Affordable Connectivity Program's

end is announced consistent with any wind-down processes established by WCB, or until all grant funds allocated for outreach in this final rule is disbursed. When the *ACP FNPRM* was released, the Commission capped outreach funding to \$100 million over the next five years. However, increased subscriber numbers could accelerate the depletion of the Affordable Connectivity Fund prior to the allotted 5-year-period for outreach spending. CGB shall coordinate with WCB on the wind-down process to be established pursuant to the direction the Commission provided in the *ACP Order*. At the point when the forecasted end of the Affordable Connectivity Program is announced pursuant to those wind-down procedures, the Commission expects that new grantees would not have sufficient time to implement and execute new outreach efforts, and any new grant awards would be highly unlikely to have meaningful impact on increasing awareness of and enrollment in the Affordable Connectivity Program. Accordingly, the Commission finds that it would not be fiscally responsible to issue new grant awards after the forecasted end of the Affordable Connectivity Program is announced pursuant to the wind-down procedures established by WCB, unless additional spending is otherwise authorized by Congress. To effectuate the Commission's direction here, CGB is authorized to cancel, withdraw, or set aside any open NOFO and to cease processing any grant applications once the forecasted end of the ACP is announced. The deadline the Commission establishes for making new grant awards provides CGB flexibility to continue to make new grant awards for as long as practicable, while also ensuring that grant funds are being used in a fiscally responsible manner. Entities that receive grant awards may continue to use their grant funds for outreach until ACP enrollments cease, pursuant to any ACP wind-down procedures established by WCB. To the extent that uncommitted funding remains in the Outreach Grant Program budget or awardees have unused grant funds after the end of the Outreach Grant Program, but before the end of the Affordable Connectivity Program, the remaining funds may be allocated back to the larger ACP budget to pay for broadband service and connected devices.

47. As explained in the *ACP FNPRM*, 2 CFR part 200 outlines numerous requirements for the administration and management of Federal grant programs. As required under Federal grant regulations, the Commission formally adopts and implements the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In the following, the Commission also provides additional guidelines and requirements for the development, administration, and management of

the grant program. CGB must develop, administer, and manage the Outreach Grant Program in compliance with the applicable Federal laws and regulations for grant programs and in compliance with the goal and objectives and any other requirements that the Commission has established for the Outreach Grant Program. This authority includes developing and administering, and the issuance of NOFO(s), establishing terms and conditions of each grant, adopting, modifying, and/or clarifying implementing regulations, and issuing orders, public notices, and/or publicly available instructions provided to applicants and/or grantees. Further, CGB shall consult with OMD, WCB, and OGC as appropriate to ensure compliance with these requirements and the requirements outlined in this final rule.

48. Federal agencies administering Federal grant programs are required to release a NOFO for grant opportunities. The NOFO provides detailed information about the specific grant opportunity, including information about the amount of funding available, eligible entities, fundable expenses and activities, application and evaluation process, reporting requirements, and other rules and requirements for the grant opportunity. The Commission directs CGB to develop and issue a NOFO for any funding opportunity for the Outreach Grant Program, in compliance with the applicable Federal regulations concerning NOFOs and the requirements the Commission establishes in this final rule, and consistent with the goal and objectives for the Outreach Grant Program. CGB shall consult with WCB, OGC, and the Office of the Inspector General (OIG) as appropriate to ensure that any NOFO issued for the grant program complies with the applicable Federal statutory requirements and regulations and any rules, requirements and policies set forth in this final rule.

49. The authorizing statute and Federal grant regulations do not require the Commission to adopt a matching requirement for the grant program. Accordingly, the Commission has the discretion to determine whether to require grant recipients to provide matching funds or contributions. Benefits Data Trust opposes a match requirement, while other commenters discuss the significant budget limitations faced by many of the types of organizations that are eligible for the grant program.

50. Based on the Commission's careful review of the record and in consideration of the urgent need for outreach by a diverse range of eligible outreach partners, it finds that a matching requirement for the Outreach Grant Program would likely thwart the potential effectiveness and impact of the grant program. The record demonstrates that many prospective eligible outreach partners are already

facing significant budget constraints. Therefore, a matching requirement for the Outreach Grant Program would likely discourage or delay applications from potential outreach partners, particularly smaller organizations. A matching requirement may also lead potential outreach partners to design and propose more limited-scope outreach efforts to ensure they have sufficient funding or resources to satisfy a matching requirement. These outcomes would potentially minimize the number of eligible households touched by grant-funded outreach and, thus, would not serve the goal or objectives of the Outreach Grant Program. Accordingly, the Commission declines to adopt a matching requirement for this grant program. Consistent with this decision, grantees that are pass-through entities also may not require a match from subrecipients. While the Commission declines to adopt a matching requirement as a condition of receiving an outreach grant, it recognizes that matching funds can maximize the effectiveness and impact of the limited outreach grant program funds. Accordingly, as explained in the following, for purposes of prioritizing grant awards, the Commission directs CGB to consider whether the applicant proposes a cost match or cost share, among other factors.

51. The Infrastructure Act does not specify the type of grant that the Commission may issue for the grant program. Therefore, the Commission has the authority to make this determination. For Federal grants, the potential types of grants include, but are not limited to, discretionary grants (which generally require a competitive process) and formula grants (which generally provide set amounts of funding based on specific criteria). The Commission concludes that competitive funding opportunities would best further the goal and objectives of the Outreach Grant Program, encourage participation by a diverse range of outreach partners, and maximize the impact of the grant program as early as practicable. The Commission also concludes that it would be appropriate to issue more than one NOFO. To the extent that more than one funding opportunity is released for this grant program, it will be necessary to allocate funding for each funding opportunity consistent with the allocations specified in this final rule or as it may be necessary to set award ceilings or floors.

52. The Commission directs CGB to decide whether funding will be released through one or more funding opportunity, determine the allocation of funding for any funding opportunity under the Outreach Grant Program consistent with the allocations specified in this final rule, and establish minimum funding amounts for States and U.S. Territories or award floors or ceilings to the extent necessary. CGB

may roll over unused funding from one set-aside to another, or from one funding opportunity to another. CGB's determinations on the number of funding opportunities and related funding allocations must be consistent with the goal and objectives of the grant program and must also promote the Commission's interests in maximizing the impact of the Outreach Grant Program as early as practicable and encouraging participation by a diverse range of outreach partners across diverse geographic regions. To make these determinations, the Commission directs CGB to consult with WCB, OMD, OEA, and OGC as appropriate to ensure compliance with Federal grant laws and regulations and requirements in this final rule, and to ensure consistency with the goal and objectives of this grant program. Any NOFO issued for this grant program shall provide specific detail on the grant opportunity including, but not limited to, the type of grant, the total amount of funding for the grant opportunity, and any ceilings and floors for the grant opportunity.

53. The *ACP FNPRM* asked whether use of outreach grant funds should be limited to named grantees or pass-through entities, or whether subgrantees, that is, subrecipients, could use funds for outreach. The Commission also sought comment on the prevalence of subrecipient models in Federal grant programs, and the advantages and disadvantages of a subrecipient model. Many commenters advocate for allowing pass-through entities to use subrecipients to conduct outreach under the Outreach Grant Program, and explain that the subrecipient model has proven highly effective in other contexts. According to commenters, a subrecipient model facilitates the participation of smaller entities that may not have the capacity or resources to apply for grants and comply with reporting requirements and allows for leveraging pass-through entity resources and expertise.

54. Based on the Commission's careful consideration of the record, it agrees that allowing pass-through entities to use subrecipients would best promote the goal and objectives of the Outreach Grant Program and maximize the potential scope and impact of grant-funded outreach. Allowing the subrecipient model would also facilitate the administration of the Outreach Grant Program by reducing the number of grants awarded and requiring management. Consequently, the Commission directs CGB to permit the use of subrecipients, where appropriate (e.g., grant awards to a national organization or to a state or local government), for funding opportunities for the Outreach Grant Program. Any subrecipients must satisfy the eligibility requirements the Commission establishes in this final rule. To ensure full

transparency regarding any subrecipients, grantees who are pass-through entities must inform CGB of which subrecipients they use, as well as the amount of each subaward. Pursuant to Federal grant regulations, pass-through entities are responsible for conducting risk assessments of potential subrecipients, monitoring their subrecipients and ensuring their subrecipients' compliance with the requirements of applicable Federal laws and regulations and this grant program. Consistent with the delegations of authority in this final rule, CGB, in consultation with OMD, may require pass-through entities to have additional policies and procedures in place to ensure subrecipient compliance with the grant requirements, terms and conditions.

55. The *ACP FNPRM* also sought comment on the application process and requirements for the grant program, noting that in previous comments, the National Digital Inclusion Alliance proposed that the application process be as minimally burdensome as possible, especially for small organizations that have limited capacity to participate in large Federal grant programs. This view is shared by many other commenters, who urge the Commission to avoid creating a program so complex that it discourages applicants. Commenters also advocate for an "accessible and non-burdensome application process." The Commission acknowledges commenters' desire for minimal administrative burden for applicants and agree that an overly complex application process could deter applicants who could provide meaningful outreach.

56. The Commission directs CGB to develop an application process, which may include relevant application templates and any supplements as appropriate, for the Outreach Grant Program in compliance with the applicable Federal guidance and regulations and consistent with the goal and objectives of the grant program. Among these regulations, 2 CFR 200.207, as implemented by the Commission, requires use of standard OMB-approved grant applications and provides for agency use of any supplemental application requirements. CGB may determine the types of eligible entities outlined in this final rule that may be eligible for a particular funding opportunity for the grant program. To develop such an application, the Commission directs CGB to consult with WCB, OMD, and OGC as appropriate to ensure compliance with the applicable Federal laws and regulations and to also ensure consistency with the program goal and objectives. In developing the application process for the grant program, the Commission further directs CGB to carefully balance minimizing the burden to potential applicants (as

discussed in the comments) and the need for sufficient information to allow reviewers effectively to analyze applications and comply with Federal grant regulations, and select applications best positioned to conduct effective, meaningful outreach.

57. Any application for the grant program must collect information sufficient for meaningful review. At a minimum, applicants must submit the following information as part of an application package: (a) project summary; (b) detailed budget; (c) budget narrative supporting the budget and demonstrating that it is consistent with the requirements in the NOFO; and (d) any mandatory forms for Federal grants. As part of the project summary, applicants will provide: a description of the geographic areas that will be targeted and served through the proposed outreach; constituencies intended to be targeted and served, to include members of an unserved or marginalized community; an estimated number of households or individuals to be targeted; whether the outreach will target communities that have low ACP participation rates; description of the applicant's role in the community which it is serving; description of the applicant's outreach goals and milestones and for their proposed outreach; and a description of whether the applicant is proposing a cost-match or cost share for their proposed outreach. These and additional project summary information requirements will be captured in detail as part of the NOFO release. To guard against duplicative funding and ensure that outreach grant program funding will be awarded for new outreach efforts and not outreach efforts for which an applicant already has funding or expects to receive funding, applicants will also be required to disclose support or funding for outreach received from broadband providers and other sources, or certify that they received no such support or funding, and to explain the need for additional funding from the Outreach Grant Program if they have already received, are receiving, or expect to receive other support or funding for ACP outreach. The Commission directs CGB to work with OEA to collect information on how grantees will gather data and track metrics related to meeting the Outreach Grant Program's goal and objectives. CGB may require any additional information necessary to evaluate grant applications and ensure compliance with the applicable Federal laws and regulations applicable to grants. CGB may also issue more than one application process or template to accommodate different types of grants, or different grant opportunities under the grant program, as necessary.

58. *Red Light Rule.* The Outreach Grant Program will be subject to the red light rule that the

Commission implemented to satisfy the requirements of Debt Collection Improvement Act of 1996.

Under the red light rule, the Commission will not take action on applications or other requests by an entity that is found to owe debts to the Commission until full payment or resolution of that debt. If the delinquent debt remains unpaid or other arrangements have not been made within 30 days of being notified of the debt, the Commission will dismiss any pending applications. Consistent with practices in the Lifeline program and other programs such as the Telecommunications Relay Service, the red light rule is not waived for the Affordable Connectivity Program and its Outreach Grant Program. If a prospective grant applicant is on red light, it will need to satisfy or make arrangements to satisfy any debts owed to the Commission before its application and/or election notice will be processed. The Commission directs CGB and OMD to ensure that a process is in place to check an entity's red light status prior to processing a grant application, disbursement, or other request from the entity consistent with the red light rule.

59. *Treasury Offset.* Grant outreach grantees will be subject to Treasury Offset. The Treasury has several collection tools, including its offset program, known as the Treasury Offset Program (TOP), through which it collects delinquent debts owed to Federal agencies and states by individuals and entities, by offsetting those debts against Federal monies owed to the debtors. Grant recipients that owe past-due debt to a Federal agency or a state may have all or part of their payments offset by Treasury to satisfy such debt. Prior to referral of its debt to Treasury, entities are notified of the debt owed, including repayment instructions. If the referred debt of a grantee remains outstanding at the time of a payment by the U.S. Treasury from the ACP Fund to that grantee, the grantee will be notified by Treasury that some or all of its payment has been offset to satisfy an outstanding Federal or state debt. Potential grant applicants who owe past due Federal or state debts are encouraged to resolve such debts and in doing so, consult the TOP Frequently Asked Questions for the Public, available at <https://fiscal.treasury.gov/top/faqs-for-the-public.html>, for delinquent debt that has been referred to Treasury, and for delinquent debt that the Commission has not yet referred to Treasury, consult <https://www.fcc.gov/general/red-light-frequently-asked-questions>.

60. *Additional Requirements.* To be eligible to receive disbursements from the Affordable Connectivity Fund, grant applicants must obtain and report an FRN. Persons or entities doing business with the Commission are required to obtain an FRN, a unique identifier that is obtained through the

Commission Registration System. Participating grant applicants must obtain an FRN if they do not already have one and report it as directed by the Commission.

61. *SAM Registration.* All entities that intend to apply for a grant must also register with the SAM. SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the Federal Government's partners in support of Federal awards, grants, and electronic payment processes. With data in SAM the Commission has an authoritative source for information necessary to provide funding to applicants and to ensure accurate reporting pursuant to the Federal Funding Accountability and Transparency Act of 2006, as amended by the Digital Accountability and Transparency Act of 2014 (collectively the Transparency Act or FFATA/DATA Act). Only grantees registered in SAM with an active registration will be able to receive reimbursement from the Affordable Connectivity Fund. Furthermore, participating grantees may be subject to reporting requirements. To the extent that participating grantees subaward the grant, as defined by FFATA/DATA Act regulations, such grantees may be required to submit data on those subawards.

62. *Do Not Pay.* Pursuant to the requirements of the Payment Integrity Information Act of 2019, the Commission must ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds. To meet this requirement, the Commission will make full use of the Do Not Pay system administered by the Treasury's Bureau of the Fiscal Service as has been done for other payments from the Affordable Connectivity Fund. If a check of the Do Not Pay system results in a finding that an ACP grant recipient should not be paid, the Commission will withhold issuing commitments and payments. The Commission may work with the grant recipient to give it an opportunity to resolve its listing in the Do Not Pay system if the grantee can produce evidence that its listing in the Do Not Pay system should be removed. However, the grant recipient will be responsible for working with the relevant agency to correct its information before payment can be made by the Commission.

63. The Commission directs CGB, in coordination with WCB, OGC, OEA, and OMD, to develop a robust application review process to ensure that the grant awards maximize the impact of grant funds on ACP awareness and participation among qualifying low-income households and also ensure the

fiscally responsible use of government funds. To ensure compliance with the applicable Federal statutes and regulations, the review process must include, at a minimum, compliance, merit, and risk assessment components. Compliance review involves assessing whether application materials are complete and comply with NOFO requirements. Merit review involves objectively evaluating, using review and scoring criteria outlined in the NOFO, an applicant's outreach proposal for likely efficacy in meeting the Outreach Grant Program's objectives. Risk assessment review involves examining an applicant's fiscal stability and operational capabilities, including the risk associated with allowing the applicant to expend Federal funds. In developing the application review process, CGB shall consult with WCB, OMD, OEA, and OGC as appropriate to ensure compliance with the applicable Federal laws and regulations for grant programs, and to otherwise ensure consistency with the goal and objectives of the grant program.

64. The *ACP FNPRM* sought comment on whether certain grant applications should be prioritized and evaluated. Based on the Commission's review of the record and experience administering the Affordable Connectivity Program, and its predecessor the EBB Program, it concludes that prioritizing certain applications will best promote the goal and objectives of the Outreach Grant Program, ensure that grant funding is targeted to where it will have the greatest impact on addressing the digital divide, and maximize the impact and effectiveness of the Outreach Grant Program funding. In evaluating applications, the Commission directs CGB, at a minimum, to prioritize applications based on the following criteria: (1) the extent to which an applicant would target unserved low-income households or individuals (i.e. households or individuals that are not currently on a low-income broadband plan or that do not have broadband service); (2) the extent to which an applicant would target outreach in communities that have low ACP participation rates (including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality); and (3) whether an applicant proposes a cost-share or cost match. In evaluating grant applications from state governmental entities or territorial governmental entities, CGB may also consider prioritizing grants based on whether the state or territory has entered into or has committed to enter into a Computer Matching Agreement with USAC for purposes of verifying the eligibility of low-income consumers for the Affordable Connectivity Program. The prioritization factors outlined in this final rule and any other prioritization and evaluation factors shall

be identified in the NOFO(s).

65. Commenters suggest additional ways to prioritize or select applications to maximize the impact of the grant funds. CGB may decide to use additional prioritization factors to promote the goal of the Outreach Grant Program and maximize the reach, effectiveness, and impact of the grant funds.

Consistent with the record, when developing prioritization criteria and evaluation criteria, CGB may also consider, for instance, an applicant's experience, ties to local communities, multilingual capabilities, ACP and digital equity experience, all of which may be relevant to the likelihood of success of an applicant's outreach plan. The following are examples of prioritization or evaluation factors that may be appropriate for CGB to use for purposes of maximizing the impact and effectiveness of the outreach grant funds:

- Experience with, and past success in, conducting outreach regarding government programs and resources, particularly providing resources and directing services (such as ACP application assistance) and education to people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality;
- Existing relationships with the communities grant applicants expect to target (e.g., as "trusted messengers"), or the ability to readily establish those relationships, particularly relationships with people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality;
- Participation in the Commission's ACP Navigator or Your Home, Your Internet Pilot Programs;
- Familiarity with the Affordable Connectivity Program and experience with or knowledge of digital equity and connectivity issues;
- Experience with or capability of providing multilingual outreach;
- A plan and/or demonstrated capacity to collect data and track metrics in order to comply with reporting requirements;
- Ability to provide outreach to multiple categories of outreach targets;
- Experience working with subrecipients with relationships to targeted communities, if an

applicant intends to pass through awards to subrecipients.

66. The *ACP FNPRM* also sought comment on whether and how grants should be distributed to achieve geographic diversity and diversity in recipient organization sizes and types. A few commenters advocate allocating grants based on geographic diversity. Others recommend ensuring funding to entities of various sizes. The Commission agrees that a diversity of award recipients and geographic areas would further the interest in nationwide ACP enrollment and outreach to target populations. Accordingly, in developing and administering the grant program, the Commission directs CGB to consider how best to ensure that grant awards are made to diverse geographic regions and entity sizes or types, whether through the funding announcement or evaluation process, and to consult with OEA and WCB to make these determinations.

67. The Infrastructure Act does not establish a performance period for the outreach grants. In the *ACP FNPRM*, the Commission sought comment on an appropriate performance period for the outreach grants. The Commission directs CGB to determine the performance period for any grant opportunity issued for the grant program. The Commission notes that many commenters indicated that a one-year performance period would not provide grantees sufficient time to develop and implement their proposed ACP outreach, and that a more than one-year performance period is more likely to incentivize applications. To determine an appropriate performance period for the outreach grants, the Commission directs CGB to consider the time frames needed to implement and execute meaningful outreach efforts based on its own outreach experience and those of existing outreach partners. The Commission further directs CGB to take into account the ACP budget projections to ensure that the performance period maximizes the impact of grant funds as early as practicable. Consistent with Federal regulations, any NOFO issued for the Outreach Grant Program will specify the performance period. As such, applicants must submit a grant application with a budget spend or draw down plan to cover the period of performance, demonstrating a plan to execute outreach efforts and support grant award closeout activities within the established period of performance.

68. Federal agencies administering grant programs are required to establish performance measures to “show achievement of program goal and objectives, share lessons learned, improve program outcomes, and foster adoption of promising practices” and establish reporting requirements. The *ACP*

FNPRM sought comment on the performance measures and reporting requirements for the grant program. Given its extensive experience conducting outreach, the Commission directs CGB to develop performance measures and reporting requirements for the Outreach Grant Program in compliance with the applicable Federal regulations. The Commission directs CGB to consult with OEA, OMD, and WCB to determine the appropriate performance measures as well as data collection and reporting requirements and related deadlines for this grant program, and to ensure the metrics and reporting requirements comply with the applicable Federal regulations, are consistent with the goal and objectives for the grant program, are tailored to accommodate a range of fundable outreach, and support a fiscally responsible administration of the program. The Commission further directs USAC to provide Commission staff upon request Affordable Connectivity Program data relevant to assessing the performance of the Outreach Grant Program, as determined by CGB, WCB, OEA and OMD.

69. To develop the performance measures and related grantee reporting requirements, CGB should strike an appropriate balance between the need for robust metrics and reporting requirements to assess the performance of the grant program and need for financial reporting, and the administrative burden to grantees. The Commission notes that many commenters caution against overly burdensome reporting requirements, and advocate for reporting on no more than an annual basis. In addition, many commenters stress the need for any performance measures to take into account the various types of outreach that may be funded through the grant program—metrics that may be appropriate for one type of outreach (e.g., in-person events) may not be appropriate for other types of outreach (e.g., paid media). A few commenters also recommend collecting qualitative (such as personal stories) as well as quantitative data to measure performance. At a minimum, the Commission requires grantees to report on the outreach activities they performed with the grant funds, how the grant funds were spent, and the effectiveness of those outreach activities. Consistent with the applicable Federal regulations, any NOFO that is released for the grant program will provide specific detail on the performance measures and reporting requirements and any reporting deadlines. Grantees must comply with progress and financial reporting requirements for the grant program, as outlined in the NOFO.

70. All awards made through the Outreach Grant Program will be subject to the audit and document retention requirements under the applicable Federal laws and regulations for grant programs.

In addition to these requirements, the Commission directs CGB and OMD, to conduct compliance audits for grantees that are not subject to the single audit act requirements (i.e., non-Federal entities that do not expend Federal awards of \$750,000 or more in the recipient's fiscal year) to ensure compliance with the Federal grant regulations, and any program rules and requirements outlined in the NOFO and grant award for individual grantees. Grantees must cooperate with any such audits and provide the requested documentation pertaining to their participation in the grant program. As noted in the following, failure to cooperate to the fullest extent required by the Commission or USAC staff may result in the termination of the award or disallowance of costs, subsequent recovery of funds by the Commission, or other enforcement actions.

71. The Commission emphasizes that it is committed to program integrity, guarding against waste, fraud, and abuse and ensuring that funds disbursed through the Outreach Grant Program are used only for approved purposes. The Commission makes clear that the enforcement authority it has with respect to the Affordable Connectivity Program, including the authority to impose forfeiture penalties to enforce compliance, also applies to the Outreach Grant Program. The Commission also has tools beyond forfeiture to address grantee noncompliance, including imposing additional conditions, disallowing costs, and suspending or terminating awards. The Commission takes seriously its enforcement obligations. Consistent with the Infrastructure Act's requirement that the Commission act expeditiously to investigate potential violations of program rules and requirements and to enforce compliance, the Commission directs the Enforcement Bureau to expeditiously investigate potential violations of and enforce the Outreach Grant Program rules and grant award terms and conditions. The Commission also reserves the right to take appropriate actions, including, but not limited to, seeking recovery of funds.

72. The *ACP FNPRM* sought comment on the types of technical assistance and other support the Commission could provide to prospective applicants and grantees in connection with the Outreach Grant Program. Specifically, the Commission sought comment on what might be valuable technical assistance to grantees and how technical assistance might evolve over the duration of the grant program implementation. The Commission also sought comment on the types of materials that it could provide outreach partners in connection with the Outreach Grant Program.

73. Several commenters support providing technical assistance to applicants. NDIA urges

the Commission to provide technical assistance to prospective applicants by hosting informational webinars, holding office hours for real-time applicant assistance, and providing applicants with links to grant-writing resources and tools. SANDAG requests that the Commission provide optional training sessions for grantees to attend that could “answer questions regarding materials, provide step-by-step instructions on how to use tools, and serve as another opportunity to share best practices.” The Hawaii Broadband & Digital Equity Office recommends that the Commission provide technical assistance online or in-person as needed and specifically “conduct at minimum one annual ‘face-to-face’ technical assistance meeting” with representatives from both grantees and subgrantees.” The Hawaii Broadband & Digital Equity Office also asks that the Commission provide technical assistance related to allowable costs associated with facilities, refreshments, mileage reimbursement, and incentives for enrollment engagements.

74. The Commission agrees that CGB should provide opportunities to walk prospective applicants through the application process and further explain the purpose and scope of the grant program. Due to the competitive nature of the funding opportunities for this grant program, CGB cannot assist prospective applicants in preparing individual applications or developing outreach proposals, as this would undermine the integrity of the application and evaluation process. However, CGB will provide publicly available general information further explaining elements of the grant program and NOFO. The Commission also finds that it would be helpful to obtain feedback from participants concerning the administration and design of the grant program. The Commission therefore directs CGB to provide opportunities (e.g., webinars, fact sheets, frequently asked questions) to help prospective applicants understand the Outreach Grant Program and its requirements and to obtain feedback from grantees during their period of performance. The Commission directs CGB to determine the mechanisms for and timing of requesting any feedback from participants, and to provide information sessions tailored to specific funding opportunities, to make adjustments to the program administration as appropriate during the course of the grant program based on feedback from participants, and to provide new information sessions or training to reflect any such adjustments. In providing information sessions, the Commission directs CGB to encourage applications from entities of all types and diverse organizations, including those serving, led, and/or owned by persons of color, persons with disabilities, persons who live in rural or

Tribal areas, and others who are or who have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, and entities participating in the ACP Navigator Pilot and the Your Home, Your Internet Pilot Program.

75. Commenters also request that the Commission develop and disseminate toolkits, outreach materials, and train-the-trainer guides related to conducting outreach to eligible households about and encouraging eligible households to enroll in the Affordable Connectivity Program. In addition, several commenters emphasize the importance of multilingual outreach and outreach resources, and request that the Commission provide grantees and subrecipients with multilingual outreach materials. While CGB already provides and continues to make available extensive outreach toolkits and ACP materials in multiple languages, the Commission directs CGB to evaluate whether revisions should be made to the existing toolkits, trainer guides, and or other outreach materials for use by grant program participants and to also evaluate whether new toolkits or materials or additional non-English translations would help promote the effectiveness and impact of the grant program. To carry out these responsibilities, CGB may engage consultants or contractors. Providing standardized materials would increase efficiency and expedite grantees and subrecipients' outreach, particularly for smaller organizations with limited resources, and would promote accurate and consistent ACP messaging. However, to maximize the impact of grant-funded outreach, the Commission encourages grantees to develop their own outreach materials tailored to the areas and communities that are the focus of their outreach.

76. The Commission next addresses commenter requests for other types of support and assistance for grantees. For example, EducationSuperHighway requests that the Commission provide grantees a "sandbox," or virtual testing environment that would simulate the National Verifier application and enrollment process. Other commenters request additional training for individuals providing application assistance. The Commission finds that existing resources for partner organizations and potential grant resources for future grantees are sufficient to train and educate individuals providing consumers with application assistance. EducationSuperHighway and NDIA also ask that the Commission provide real-time support, either through live chat or a call center for grantees that provide application assistance. The Commission reminds prospective applicants of the existing ACP call center resources to answer questions about the application process. While extensive resources are already available to assist

outreach partners with helping eligible consumers to navigate the ACP application process, CGB may, in consultation with WCB and USAC, explore the utility and feasibility of providing other avenues for providing assistance and technical support to grantees that provide application assistance.

77. The Commission makes robust data available to track enrollments in the Affordable Connectivity Program and to allow grantees to identify potential areas where targeted outreach could be beneficial, including making aggregate enrollment data available by ZIP code, county, age, National Verifier selected eligibility criteria, and type of service. Additionally, as explained in the *ACP Order*, separate from the grant program, the Commission has directed WCB and OEA, with support from USAC, to collect data to develop metrics to determine progress towards narrowing the digital divide, and WCB, OEA, and USAC are continuing to explore potential metrics to track that goal. Some commenters request that the Commission collect and make available plan characteristic and pricing information for the Affordable Connectivity Program. The Commission is required by the Infrastructure Act to make additional information concerning ACP plan pricing and characteristics available through the Commission's *Broadband Labels* or *ACP Transparency Data Collection* proceedings. Once the Commission defines the requirements of those initiatives later this year, CGB may consider whether these data can be useful for participants engaged in or considering a meaningful outreach campaign. The Commission also believes the program data already publicly available to grant recipients is sufficiently robust that the Outreach Grant Program need not be delayed pending the resolution of those proceedings. Indeed, today, CGB currently conducts outreach, and coordinates outreach with other organizations without this data.

78. At least one commenter requests that the Commission establish a grantee database of organizations engaged in Affordable Connectivity Program outreach efforts including organizations' contact information, details about service areas, expertise, and available resources. The purpose of this database would be to allow for resource sharing and coordination among grantees. Federal regulations already require Federal awarding agencies to announce all Federal awards publicly and to publish the required information about the award on a publicly-available OMB designated website. To promote transparency, the Commission directs CGB also to provide publicly available information on the entities that have received awards through the Outreach Grant Program on the Commission's website. At a

minimum this information should include the name of the awardee, the amount of the award, an abstract outreach project summary, and a main point of contact for the funding recipient. In addition, the Commission recognizes that grantees may be interested in additional information concerning other grantees and their outreach efforts to facilitate coordination and communication amongst grantees. Accordingly, the Commission directs CGB to explore the possibility of making available additional information on participants in this grant program to facilitate coordination and communication amongst grantees, and it expects CGB to determine how this information could be made available, and also the types of data that could be made available to facilitate coordination and communication amongst participants in the grant program. Based on grantees' willingness to participate, CGB may also establish and host an information sharing forum to exchange lessons learned and best practices among grant recipients in executing outreach activities.

79. Additionally, some commenters request that the Commission issue unique grantee ID numbers to allow for tracking enrollments for specific outreach efforts, and communication and coordination amongst grantees. Although this proposal raises potential technical, administrative, and legal issues, the Commission agrees there may be utility in tracking enrollments based on grantees' outreach efforts, perhaps by requiring the use of an FRN, SAM registration number, or other unique identifier a grantee would be required to obtain as part of the Outreach Grant Program, to the extent this is technically and administratively feasible. The Commission nevertheless directs CGB and OEA to explore the feasibility and administrability of tracking enrollments by grantee outreach effort and legality of disseminating this information.

80. The Commission acknowledges that many commenters stress the importance of and need for data transparency concerning the Outreach Grant Program. To promote transparency, the Commission directs CGB, with assistance from WCB, OMD, OEA, and USAC as appropriate, to submit to them interim updates, and a final report detailing the results of the Outreach Grant Program. CGB shall submit the final report after the end of the grant program, after all grant awards have been closed out. At a minimum, the final report shall provide an assessment of the grant program's performance against the goal identified in this final rule and shall also summarize any lessons learned concerning the development, administration, and management of the Outreach Grant Program.

81. Over 12 million low-income households have already benefited from ACP enrollment. Most providers offer plans that are either fully or largely covered by the monthly subsidy, allowing households to obtain affordable broadband to access job search and work options, educational, telehealth, and entertainment resources, and communicate with family and friends. However, tens of millions of eligible households have yet to enroll in the Affordable Connectivity Program. From the Commission's review of comments, it appears that many of these households have traditionally been the most underserved and underrepresented when it comes to broadband access. By increasing program awareness among this diverse and underserved population, the Outreach Grant Program will make substantial progress toward narrowing the digital divide.

82. While the potential benefits of the Outreach Grant Program are substantial, the Commission seeks to provide funding to support outreach in the most cost-effective manner possible, and its discussion in this final rule reflects that goal. The Commission recognizes that outreach to a diverse and underserved population can be more effectively accomplished by providing support to a diverse group of qualified grantees that are capable of directly or indirectly (through subrecipients) conducting effective outreach activities or working directly with low-income populations to raise awareness of the Affordable Connectivity Program or provide application assistance. The Commission's decision to open eligibility up to a wide range of governmental and non-governmental entities should result in a wide range and variety of outreach efforts targeted towards different segments of the targeted low-income population by grantees and subgrantees capable of conducting this outreach. Further, the Commission only permits grantees to receive support for allowable costs consistent with the goal and objectives of the Outreach Grant Program.

83. The Commission also extends to CGB the flexibility necessary to administer the Grant Program in a cost-effective manner. The Commission makes it possible for CGB to structure NOFOs for the grant program so as to make use of the performance measures that the Commission requires CGB to track, and grantees to provide, in order to make more cost-effective funding allocation decisions for the duration of the grant program. For example, by not prescribing the number of funding opportunities or the size of grants at this time, the Commission allows CGB to make these determinations taking into account the information provided by potential outreach partners in the application process as well as

enrollment, awareness or other programmatic data from the Affordable Connectivity Program to the greatest possible extent. Likewise, unless otherwise specified in this final rule, CGB has flexibility in how the overall grant program budget shall be distributed across one or more NOFOs. This prioritizes cost-effective spending by ensuring that funding decisions are driven by outreach needs and quality of grantee applications rather than presupposing uniformity. In taking these steps to maximize cost-effectiveness, the Commission compromises none of the integrity of the Outreach Grant Program: it still requires that grantees operate in a broadband service provider-neutral manner, prohibit grantee representatives from receiving compensation based on the number of ACP applications or enrollments attributable to their outreach (including enrollment assistance), prohibit grantees from earning or keeping any profit resulting from a grant award, and the Commission maintains full accordance with all Federal requirements for the administration and management of Federal grant programs.

III. SEVERABILITY

84. All of the rules that are adopted in this final rule are designed to work in unison to develop, administer and manage the Outreach Grant Program, provide grant funds to eligible outreach partners, and to protect the integrity of the Outreach Grant Program's administration. However, each of the separate rules the Commission adopts here serves a particular function toward these goals. Therefore, it is the Commission's intent that each of the rules adopted herein shall be severable. If any of the rules is declared invalid or unenforceable for any reason, it is the Commission's intent that the remaining rules shall remain in full force and effect.

IV. PROCEDURAL MATTERS

A. Paperwork Reduction Act

85. Pursuant to 47 U.S.C. 1752(h)(2) the collection of information sponsored or conducted under the regulations promulgated in this final rule is deemed not to constitute a collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501-3521.

B. Congressional Review Act

86. The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, OMB, concurs, that this rule is "major" under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Report and Order to Congress and the

87. *Regulatory Flexibility Act.* Consistent with the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission included an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *ACP Order* in WC Docket No. 21-450. The Commission sought written public comment on the proposals in the *ACP Order*, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis conforms to the RFA.

88. In the Infrastructure Act, Congress established the Affordable Connectivity Program, which is designed to promote access to broadband internet access services by households that meet specified eligibility criteria by providing funding for participating providers to offer certain services and connected devices to these households at discounted prices. The Affordable Connectivity Program funds an affordable connectivity benefit consisting of a \$30.00 per month discount on the price of broadband internet access services that participating providers supply to eligible households in most parts of the country and a \$75.00 per month discount on such prices for households residing in qualifying Tribal lands.

89. The Infrastructure Act also requires the Commission to conduct outreach efforts to inform potentially eligible households about the Affordable Connectivity Program and encourage them to enroll in the program, and it authorizes the Commission to provide grants to outreach partners in order to carry out this responsibility. With the expectation that the Affordable Connectivity Program will extend for multiple years, in this final rule the Commission promulgates rules and guidelines establishing the Outreach Grant Program. The Commission establishes a program goal and objectives, implements applicable Federal grant regulations, and provides a framework for the program.

90. The Commission establishes rules and requirements in this final rule necessary to establish the Outreach Grant Program. Additional information on the Outreach Grant Program, including, but not limited to, the application process and reporting requirements will be provided in a subsequent NOFO. Establishing the Outreach Grant Program is consistent with our authorization under the Infrastructure Act and our ongoing efforts to bridge the digital divide by ensuring that eligible low-income households have access to affordable, high-quality, broadband Internet access service.

91. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; (3) satisfies any additional criteria established by the Small Business Administration (SBA).

92. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission’s actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 32.5 million businesses.

93. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

94. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 general purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments - independent school districts with enrollment

populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of “small governmental jurisdictions.”

95. *Regional Planning Committees.* Neither the Commission nor the SBA have developed a small business size standard specifically applicable to Regional Planning Committees (RPCs). The closest applicable industry with a SBA small business size standard is Business Associations, which comprises establishments primarily engaged in promoting the business interests of their members. Examples of such organizations include: real estate boards, chambers of commerce, trade associations and manufacturers’ associations. The SBA small business size standard for Business Associations classifies firms with annual receipts of \$8 million or less as small. For this industry, U.S. Census Bureau data for 2017 show that there were 14,540 firms that operated for the entire year. Of these firms, 11,215 had revenue of less than \$5 million. Based on this data, the majority of firms in this industry can be considered small.

96. The Commission set aside six megahertz of spectrum in the 800 MHz band for exclusive use by local, regional and state public safety agencies under guidelines developed by the National Public Safety Planning Advisory Committee (NPSPAC). The 800 MHz NPSPAC spectrum is administered on a regional basis by 55 public safety RPCs. RPCs consist of public safety volunteer spectrum planners and members that dedicate their time, to coordinate spectrum efficiently and effectively to make it available to public safety agency applicants in their respective regions. In the 700 MHz band the general use channels and some of the narrowband low power channels are subject to regional planning. There are 55 RPCs for the 700 MHz band whose task is to create a plan for General Use in their area and submit it to the Commission. RPCs are volunteer committees and the Commission does not have revenue information to which the SBA size standard can be applied. However, these committees typically have less than 5 members per region, therefore the Commission estimates that most RPCs are small.

97. *Grants to Consumer Outreach Partners.* The Commission, like all other Federal agencies, is required to comply with government-wide regulations governing grant awards, codified primarily in title 2 of the Code of Federal Regulations (2 CFR), that apply to all Federal agencies. Those uniform Federal grant-related requirements, developed based on guidance provided over a number of

years by OMB, were codified in an interim final rule that OMB and over 30 other Federal agencies jointly adopted and published in the Federal Register on December 19, 2014 (*Uniform Guidance*, 79 FR 75871, December 19, 2014). In adopting their own rules to implement these standardized grant-making requirements, some agencies that joined in the issuance of the *Uniform Guidance* – including the Department of Commerce, whose rules apply to sub-agencies including the National Telecommunications and Information Administration, and the SBA – incorporated OMB’s guidance without change. Other agencies that joined in the issuance of the *Uniform Guidance*, including the Department of Agriculture’s Rural Utilities Service (RUS), adopted additional language in their own regulations to provide more detail with respect to how they intended to implement the policy and to clarify any pertinent exceptions to the general rules.

98. OMB and the other agencies that joined in issuing the *Uniform Guidance* in 2014 concluded that, under the standards of the RFA, the requirements regarding grant awards would not have a significant economic impact on a substantial number of small entities. These agencies reached this conclusion based on the fact that largely identical generic requirements were already in place, and the *Uniform Guidance* simply codified them without any incremental impact on a substantial number of small entities.

99. The grant-related rules adopted in this final rule follow the *Uniform Guidance* that applies to all Federal agencies. Like OMB, SBA, and other agencies that joined in issuing the *Uniform Guidance* in 2014, the Commission does not anticipate that such rules will have a significant economic impact on a substantial number of small entities. A subsequent Notice of Funding Opportunity will be issued with additional information on the Outreach Grant Program, including the application and reporting requirements. These requirements will be necessary to ensure high-quality applications and facilitate the evaluation of the applications, and to also ensure compliance with the requirements in the *Uniform Guidance*. In establishing these requirements, consideration will be given to the administrative and compliance burdens on Outreach Grant Program participants, including small entities.

100. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements

or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

101. The Commission concludes that the rules adopted in this final rule are not likely to have any significant economic impact on eligible small entities that voluntarily opt to apply for outreach grants or participate in the Outreach Grant Program as subrecipients. Moreover, regardless of size, all entities that apply for an outreach grant will need to satisfy the minimum application requirements outlined in the applicable Notice of Funding Opportunity and entities participating in the Outreach Grant Program will be required to comply with Outreach Grant Program requirements, including, but not limited to, progress and financial reporting consistent with the government-wide *Uniform Guidance*, which necessarily will be the foundation of our rules and requirements for the Outreach Grant Program. This final rule declines to adopt a matching requirement for the Outreach Grant Program, because it would likely discourage or delay applications from potential outreach partners, particularly smaller organizations. In developing the rules and requirements, including, but not limited to, the application requirements and reporting requirements, consideration will be given to the burdens on all participants, including small entities. The Outreach Grant Program will permit subrecipients where appropriate (e.g., awards to state or local government entities, or national entities), which will enable eligible small entities to participate in the Outreach Grant Program and benefit from the administrative capacity and resources of larger grantees with respect to reporting and other Outreach Grant Program requirements, which may minimize the administrative and compliance burdens for small entities that participate as subrecipients.

V. ORDERING CLAUSES

1. Accordingly, IT IS ORDERED that, pursuant to the authority contained in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1182, as amended by section 60502 of Division F, Title V of the Infrastructure Investment and Jobs Act, Pub. L. 117-58, 135 Stat. 429 (2021), and the authority contained in sections 1, 4(i), 5(c), and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 155(c), 303(r), 1752, and the authority contained section 60502 of Division F, Title V of the Infrastructure Investment and Jobs Act, 47 U.S.C.

1752(b)(10)(C), the Report and Order IS ADOPTED.

2. IT IS FURTHER ORDERED, that parts 0 and 54 of the Commission's rules, 47 CFR parts 0 and 54, are AMENDED as set forth in the following, and such rule amendments shall be effective sixty (60) days after publication of the text or summary thereof in the Federal Register.

3. IT IS FURTHER ORDERED, that subtitle B of title 2 of the Code of Federal Regulations are AMENDED as set forth in the following, and such rule amendments shall be effective sixty (60) days after publication of the text or summary thereof in the Federal Register.

List of Subjects

2 CFR Part 6000

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements.

47 CFR Part 0

Authority delegations (Government agencies), Communications, Communications common carriers, Classified information, Freedom of information, Government publications, Infants and children, Organization and functions (Government agencies), Postal Service, Privacy, Reporting and recordkeeping requirements, Sunshine Act, Telecommunications.

47 CFR Part 54

Communications common carriers, Health facilities, Infants and children, Internet, Libraries, Puerto Rico, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone, Virgin Islands.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene Dortch,
Secretary.

Final Regulations

For the reasons discussed in the preamble, the Federal Communications Commission amends subtitle B of title 2 and parts 0 and 54 of title 47 of the Code of Federal Regulations as follows:

Title 2 – Grants and Agreements

Subtitle B – Federal Agency Regulations for Grants and Agreements

1. Under the authority of 47 U.S.C. 154(i) and 1752(b)(10)(C) and 2 CFR part 200, add chapter LX, consisting of parts 6000 through 6099, in subtitle B of title 2 to read as follows:

CHAPTER LX--FEDERAL COMMUNICATIONS COMMISSION

PART 6000--UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

PARTS 6001-6099 [Reserved]

PART 6000--UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

6000.1 Adoption of 2 CFR Part 200.

6000.2 [Reserved]

Authority: 47 U.S.C. 154(i), 1752(b)(10)(C); 2 CFR part 200.

§ 6000.1 Adoption of 2 CFR Part 200.

Except as otherwise may be provided by this part, the Federal Communications Commission adopts the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 CFR part 200.

§ 6000.2 [Reserved]

PARTS 6001-6099 [Reserved]

Title 47 – Telecommunication

PART 0 – COMMISSION ORGANIZATION

2. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

3. Amend § 0.11 by adding paragraph (a)(11) to read as follows:

§ 0.11 Functions of the Office.

(a) * * *

(11) Advise the Chairman, Commission, and Commission Bureaus and Offices on matters concerning the development, administration, and management of the Affordable Connectivity Outreach Grant Program.

* * * * *

4. Amend § 0.141 by revising the introductory text and adding paragraph (l) to read as follows:

§ 0.141 Functions of the Bureau.

The Consumer and Governmental Affairs Bureau develops and administers the Commission's consumer and governmental affairs policies and initiatives to enhance the public's understanding of the Commission's work and to facilitate the Agency's relationships with other governmental agencies and organizations. The Bureau is responsible for rulemaking proceedings regarding general consumer education policies and procedures and serves as the primary Commission entity responsible for communicating with the general public regarding Commission policies, programs, and activities in order to facilitate public participation in the Commission's decision-making processes. The Bureau also serves as the primary Commission entity responsible for administering the Affordable Connectivity Outreach Grant Program for outreach, in coordination with the Office of the Managing Director, Office of the General Counsel, Wireline Competition Bureau, and Office of Economics and Analytics. The Bureau also performs the following functions:

* * * * *

(l) Advises and makes recommendations to the Commission, or acts for the Commission under delegated authority, to develop, administer, and manage the Affordable Connectivity Outreach Grant Program. This includes coordinating with the Office of the Managing Director (OMD) on interagency agreements with other Federal agencies as may be necessary to develop, administer, and manage the Affordable Connectivity Outreach Grant Program, including, developing, administering, and issuing Notices of Funding Opportunity for and making grant awards or entering into cooperative agreements for the Affordable Connectivity Outreach Grant Program.

This also includes, with the concurrence of the General Counsel, interpreting rules and regulations pertaining to the Affordable Connectivity Outreach Grant Program.

5. Amend § 0.231 by:
 - a. Revising paragraph (l); and
 - b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 0.231 Authority delegated.

* * * * *

(l) The Managing Director is delegated authority to issue subpoenas for the Office of Managing Director's oversight of audits of the USF programs and other financial assistance programs, and the Office of Managing Director's review and evaluation of the interstate telecommunications relay services fund, the North American numbering plan, regulatory fee collection, FCC operating expenses, and debt collection. Before issuing a subpoena, the Office of Managing Director shall obtain the approval of the Office of General Counsel.

* * * * *

PART 54 – UNIVERSAL SERVICE

6. The authority for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

7. Add subpart S, consisting of §§ 54.1900 through 54.1904, to read as follows:

Subpart S – Affordable Connectivity Outreach Grant Program

Sec.

54.1900 Applicability of Uniform Administrative Requirements for grants and cooperative agreements to non-Federal entities.

54.1901 Neutrality requirement.

54.1902 Prohibited activities and costs.

54.1903 Ineligible entities.

54.1904 Recordkeeping and audits.

§ 54.1900 Applicability of Uniform Administrative Requirements for grants and cooperative agreements to non-Federal entities.

Federal awards to non-Federal entities are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200, as adopted at 2 CFR 6000.1.

§ 54.1901 Neutrality requirement.

Outreach conducted by Grantees, Pass-through Entities, and Subrecipients, as defined in 2 CFR part 200, through the Commission's Affordable Connectivity Outreach Grant Program shall be neutral with respect to a particular participating provider (as defined in § 54.1800(r)(1) through (4)) or among a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations).

§ 54.1902 Prohibited activities and costs.

In addition to any prohibited activities or costs, or other restrictions on grantee activities and costs under 2 CFR part 200, as adopted at 2 CFR 6000.1, or any other Federal statutes and regulations governing Federal grants, the following prohibitions apply to Grantees, Pass-through Entities, and Subrecipients for the Affordable Connectivity Outreach Grant Program.

(a) Prohibition against steering consumers to particular ACP participating providers.

Grantees, Pass-through Entities, and Subrecipients (as defined in 2 CFR 200.1) shall not direct, steer, incentivize, or otherwise encourage consumers to enroll with a particular participating provider (as defined in § 54.1800(r)(1) through (4)) or among a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations) when conducting grant-funded outreach activities. Grantees, Pass-through Entities, and Subrecipients shall also make clear that eligible households may enroll with the participating provider of their choice.

(b) Prohibition against use of ACP participating provider-branded items. Grantees, Pass-through Entities, and Subrecipients shall not use participating-provider (as defined in § 54.1800(r)(1) through (4)) branded items such as outreach materials, gifts, or incentives when conducting grant-funded outreach activities.

(c) Prohibition against ACP participating provider gifts, incentives, and funding.

Grantees, Pass-through Entities, and Subrecipients shall not:

(1) Offer or provide consumers gifts or incentives provided by or funded by a participating provider (as defined in § 54.1800(r)(1) through (4)) or a specific group of participating providers (including, but not limited to, broadband industry groups, such as trade associations) to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program (ACP) when conducting grant-funded outreach activities; or

(2) Otherwise accept funding in any form, including in-kind contributions, from a participating provider or a specific group of participating providers for the purpose of conducting grant-funded outreach activities.

(d) Prohibition against using grant funds for gifts and incentives. Grantees, Pass-through Entities, and Subrecipients may not use grant funds to obtain or support gifts or incentives to offer or provide to consumers to encourage consumers to learn about, apply for, or enroll in the Affordable Connectivity Program or otherwise engage with the Grantee, Pass-through Entity, or Subrecipient concerning the Affordable Connectivity Program when conducting grant-funded outreach activities.

(e) Prohibition of certain compensation for individuals engaged in outreach. Grantees, Pass-through Entities, and Subrecipients shall not offer or provide any form of compensation that is based on the number of consumers or households that learn about, apply for, or enroll in the Affordable Connectivity Program to individuals conducting grant-funded outreach activities, including but not limited to their personnel, their representatives, their contractors, or others acting on behalf of the entity to conduct grant-funded outreach.

§ 54.1903 Ineligible entities.

(a) In addition to any participant restrictions in 2 CFR part 200, as adopted at 2 CFR 6000.1, the following entities may not receive awards, either as Grantees, Pass-through Entities, or Subrecipients under the Outreach Grant Program:

(1) Broadband providers (including municipal broadband providers), their affiliates, subsidiaries, contractors, agents, or representatives; and

(2) Broadband industry groups and trade associations that represent broadband providers.

(b) For municipal broadband providers, the exclusion of broadband providers and their affiliates, subsidiaries, or representatives from eligibility does not extend to separate arms of the municipality that do not maintain, manage, or operate the municipal broadband network.

§ 54.1904 Recordkeeping and audits.

Participants in the Affordable Connectivity Outreach Grant Program must maintain records to document compliance with the rules and requirements for the Outreach Grant Program in accordance with 2 CFR 200.334, 200.335, 200.336, and 200.338, as adopted at 2 CFR 6000.1, and shall provide that documentation to the Office of the Managing Director or any other FCC Bureau or Office, or their assigns, upon request in accordance with 2 CFR 200.337, as adopted at 2 CFR 6000.1.

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